

REMARKS

By this Amendment, claim 9 has been amended to merely clarify the recited subject matter and claim 10 has been cancelled without prejudice or disclaimer. Claims 1-9 and 11-12 are pending but claims 1-8 have been withdrawn from consideration based on the election/restriction requirement.

Claim 9 was rejected under 35 U.S.C. 102(b) as being anticipated by Nobuo et al. (JP 63058051; hereafter "Nobuo") and claims 10-11 were rejected under 35 U.S.C. 103(a) as being obvious from Nobuo in view of Nishida et al. (JP 11132538; hereafter "Nishida"). The cancellation of claim 10 rendering its rejection moot, Applicants traverse the rejections of claims 9 and 11 because the cited prior art, analyzed individually or in combination, fail to teach or suggest all the features recited in the rejected claims. For example, the cited prior art fails to disclose, teach or suggest the claimed invention air conditioner that includes a control unit operatively connected to the capacity variable compressor unit; which includes capacity determining means for determining a temperature data in accordance with the set temperature and the indoor temperature, memory addressing means into which the outdoor temperature is inputted, **an electrical erasable programmable read-only-memory (EEPROM)** storing a maximally allowable capacity for the capacity variable compressor unit which is read out in responding to the outdoor temperature, and maximum capacity limiting means for limiting the capacity of the capacity variable compressor unit determined in accordance with the temperature data to a value less than the maximally allowable capacity read out from the programmable memory means.

Nobuo merely discloses an air conditioner capable of performing an operation at high performance by limiting the revolution of the compressor to the maximum revolution in response to an outdoor temperature. However, Nobuo fails to teach the present invention wherein an EEPROM stores the maximum revolution (i.e., the upper limit) of the compressor operation in response to the outdoor temperature so as to be rewritable in accordance with an operational condition.

In Nobuo, the relationship between the maximum revolution and the outdoor temperature is fixed; thus, Nobuo fails to teach or suggest consideration or analysis of parameters influencing the efficiency of the air conditioner other than the outdoor temperature, e.g., inside (room) temperature, setting conditions of the air conditioner, etc.

Nishida fails to remedy the deficiencies of Nobuo because Nishida merely teaches an air conditioner in which operation setting data (utilized for the control of the air conditioner)

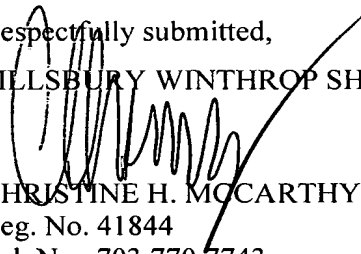
is stored in an EEPROM and that data stored is rewritable by a remote controller. However, in Nishida, the only operation setting data disclosed is the initial degree of opening of an electric expansion valve, maximum or minimum pulse number, threshold value of an outside (outdoor) temperature for measuring the outside temperature and a target value for low or high temperature of a pressure sensor. However, the data does not include the relationship of correspondence between the outdoor temperature and the maximum revolution of the compressor.

Accordingly, whether analyzed individually or in combination, both Nobuo and Nishida, fail to disclose, teach or suggest (1) that there is any relationship between the outdoor temperature and the maximum revolution of the compressor for achieving a high operational efficiency and performance or (2) that the storage of data indicating such a relationship or subsequent reference to that data would provide improved operation of an air conditioner unit. Therefore, independent claim 9 and its dependent claims 11 and 12 are patentable over the cited prior art and allowable.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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Date: April 11, 2006.  
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